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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,030	11/25/2002	Andrew Wayne Allaway	11696.0052	6555

7590

11/14/2005

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EXAMINER

RAMPURIA, SHARAD K

ART UNIT

PAPER NUMBER

2688

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,030

Applicant(s)

ALLAWAY ET AL.

Examiner

Sharad Rampuria

Art Unit

2688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-48 and 50-68 is/are pending in the application.
- 4a) Of the above claim(s) 1-30 and 49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-48 and 50-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

I. The current office-action is in response to the application filed on 8/30/05.

Accordingly, Claims 1-30 and 49 are cancelled and Claims 31-48 and 50-68 are pending for further examination as follows:

Double Patenting

II. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 31-48 and 50-68 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13-30 of copending Application No. 09/833593 (based on claims amended on 05/04/2004).

This is a provisional obviousness-type double patenting rejection.

III. Claims 31-48 and 50-68 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13-30 of copending U.S. Application No. 09/833593. Although the conflicting claims are not identical, but they are not patentably distinct from each other because all of the claimed limitations of the present U.S. Application

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No. 10/088030 for example, Claim 31 is explained in following table, are transparently found in copending U.S. Application No. 09/833593 with obvious wording variations.

<i>Instant Claim of U.S. Application No. 10/088030</i>	<i>Related Claim of copending U.S. Application No. 09/833593</i>
31. A method for forwarding incoming cellular communications to an aircraft, comprising; Receiving a request to divert incoming calls for a cellular telephone number to a communication system on board an aircraft; Associating a divert on busy instruction with the cellular telephone number, the divert on busy instruction representing an instruction to forward an incoming call for the cellular telephone number to the communications system aboard the aircraft; Considering a state of a cellular telephone associated with the cellular telephone number as busy, regardless of an actual state of the cellular telephone, and Wherein, an incoming telephone call to the	13. A method for forwarding incoming cellular communications to an aircraft, comprising; Receiving a request to divert incoming calls for a cellular telephone number to a communication system on board an aircraft; Associating a diversion instruction with the cellular telephone number, the diversion instruction representing an instruction to forward an incoming call for the cellular telephone number to the communications system aboard the aircraft; Considering a state of a cellular telephone associated with the cellular telephone number as busy, regardless of an actual state of the cellular telephone, and

cellular telephone number is forwarded, consistent with said considering and in accordance with the diversion instruction, to the communications system on board the aircraft.	Wherein, an incoming telephone call to the cellular telephone number is forwarded, consistent with said considering and in accordance with the diversion instruction, to the communications system on board the aircraft.
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Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Response to Argument

IV. Applicant's arguments with respect to claims 31-48 and 50-68 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

V. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:15-4:45).


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or EBC@uspto.gov.

Sharad Rampuria
Examiner
Art Unit 2688

November 4, 2005


GEORGE ENG
PRIMARY EXAMINER